

AMENDED IN ASSEMBLY APRIL 30, 2012

AMENDED IN ASSEMBLY APRIL 11, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

No. 2284

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**Introduced by Assembly Member Chesbro**  
**(Coauthors: Assembly Members Fong, Halderman, and Huffman)**

February 24, 2012

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An act to add Section 12025 to the Fish and Game Code, and to amend  
~~add Section 2810 of 2810.2 to the Vehicle Code, relating to irrigation.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 2284, as amended, Chesbro. Irrigation.

~~Existing~~

(1) *Existing* law establishes fines and penalties for a violation of the Fish and Game Code.

This bill would impose additional civil penalties for a violation of specified provisions of the Fish and Game Code ~~connected to marijuana cultivation on a unit of the state park system, state forest, and timberland, as defined~~, in connection with the production or cultivation of a controlled substance, as defined, on land within the jurisdiction of specified state and federal agencies or within the ownership of a timber preserve zone, at an amount determined by the Fish and Game Commission, as prescribed.

~~Existing~~

(2) *Existing* law authorizes a member of the California Highway Patrol to stop any vehicle transporting any timber products, livestock, poultry, farm products, crude oil, petroleum products, or inedible kitchen

grease, and inspect the bills of lading, shipping, or delivery papers, or other evidence to determine whether the driver is in legal possession of the load, and, upon reasonable belief that the driver of the vehicle is not in legal possession, to take custody of the vehicle and load and turn them over to the custody of the sheriff of the county in which any of those items are apprehended. *Existing law also generally prohibits a person from driving a motor vehicle upon a highway, unless the person then holds a valid driver's license.*

This bill would ~~additionally~~ authorize a member of the California Highway Patrol or the sheriff or a deputy sheriff to stop a vehicle transporting agricultural irrigation supplies, as defined, that are in plain view ~~within the boundaries of a state park, state forest, or federal forest, or on timberland, on a rock or unpaved road within the jurisdiction of specified state or federal agencies or within the ownership of a timber preserve zone~~ and inspect the bills of lading, shipping, or delivery papers, or other evidence to determine whether the driver is in legal possession of the load, and, upon reasonable belief that the driver of the vehicle is not in legal possession, to take custody of the vehicle and load and turn them over to the custody of the sheriff of the county in which any of those items are apprehended. ~~Because~~ *The bill would prohibit a peace officer from impounding a vehicle at a traffic stop made pursuant to this authorization if the driver's only offense is a violation of the prohibition against driving a motor vehicle upon a highway without holding a valid driver's license. The bill would require a peace officer making such a stop who encounters a driver in violation of this prohibition to take certain actions with regard to obtaining from the registered owner of the vehicle authorization to release the vehicle to a licensed driver.*

*Because* the sheriff would be required to receive and provide for the care and safekeeping of the seized agricultural irrigation supplies, this bill would impose a state-mandated local program.

(3) *The bill would declare the intent of the Legislature that the implementation of the bill's provisions not contradict the purposes or application of the Compassionate Use Act of 1996.*

~~The~~

(4) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) As a result of the closure and lack of staffing at numerous  
4 state parks, those parks and other resource lands have become  
5 infested with illegal marijuana cultivation.

6 (b) The illegal marijuana growing sites create a hazard for those  
7 who recreate on these public resource lands. Some of the most  
8 recent events that showed the relative danger were the murder of  
9 Matthew Coleman and Fort Bragg City Council Member Jere Melo  
10 who surveyed the forest for illegal marijuana growth in connection  
11 with local law enforcement and were killed in the course of their  
12 jobs.

13 (c) The marijuana growsites often are constructed without regard  
14 for the environment or wildlife.

15 (d) Because the illegal marijuana cultivation operations are set  
16 up deep in resource land, all the equipment is brought in and  
17 constructed without consideration for the environmental effects.

18 (e) Many illegal marijuana growsites include water diversion  
19 with irrigation pipes, generators, and batteries to power the  
20 cultivation equipment and camp, illegal damming and water  
21 diversion, and pesticides and insecticides that are sometimes added  
22 directly to streams and ponds.

23 SEC. 2. Section 12025 is added to the Fish and Game Code,  
24 to read:

25 12025. (a) In addition to any penalties imposed by any other  
26 law, a person found to have violated Section 1602, 5650, or 5652  
27 in connection with ~~marijuana cultivation on a unit of the state park~~  
28 ~~system or state forest, or on timberland~~ *the production or*  
29 *cultivation of a controlled substance on land within the respective*  
30 *jurisdiction of the Department of Parks and Recreation, the*  
31 *Department of Fish and Game, the Department of Forestry and*  
32 *Fire Protection, the United States Forest Service, or the Bureau*  
33 *of Land Management, or within the respective ownership of a*

1 *timberland preserve zone, as defined in Section 51110 of the*  
2 *Government Code, shall be liable for a civil penalty in the*  
3 *following amounts:*

4 (1) A person who violates Section 1602 in connection with the  
5 ~~cultivation of marijuana~~ *production or cultivation of a controlled*  
6 *substance* is subject to a civil penalty of not more than ten thousand  
7 dollars (\$10,000) for each violation.

8 (2) A person who violates Section 5650 in connection with the  
9 ~~cultivation of marijuana~~ *production or cultivation of a controlled*  
10 *substance* is subject to a civil penalty of not more than forty  
11 thousand dollars (\$40,000) for each violation.

12 (3) A person who violates Section 5652 in connection with the  
13 ~~cultivation of marijuana~~ *production or cultivation of a controlled*  
14 *substance* is subject to a civil penalty of not more than forty  
15 thousand dollars (\$40,000) for each violation.

16 (b) The civil penalty imposed for each separate violation  
17 pursuant to this section is in addition to any other civil penalty  
18 imposed for another violation of this section, or any violation of  
19 any other law.

20 (c) All civil penalties collected for a separate violation pursuant  
21 to this section shall not be considered to be fines or forfeitures, as  
22 described in Section 13003, and shall be apportioned in the  
23 following manner:

24 (1) Thirty percent shall be distributed to the county in which  
25 the violation was committed pursuant to Section 13003. The county  
26 board of supervisors shall first use any revenues from those  
27 penalties to reimburse the costs incurred by the district attorney  
28 or city attorney in investigating and prosecuting the violation.

29 (2) Thirty percent shall be distributed to the lead investigating  
30 agency to be used to reimburse the cost of any investigation directly  
31 related to the violations described in this section.

32 (3) Forty percent shall be distributed to the primary investigating  
33 agency for the reimbursement for all reasonable costs associated  
34 with the clean up or abatement of the ~~marijuana~~ *cultivation or*  
35 *production site.*

36 (d) For the purposes of this section, ~~“timberland” has the same~~  
37 ~~meaning as that set forth in Section 51104 of the Government Code~~  
38 *“controlled substance” has the same meaning as defined in Section*  
39 *11007 of the Health and Safety Code.*

40 SEC. 3. ~~Section 2810 of the Vehicle Code is amended to read:~~

1     ~~2810. (a) (1) A member of the California Highway Patrol~~  
2 ~~may stop a vehicle transporting any timber products, livestock,~~  
3 ~~poultry, farm produce, crude oil, petroleum products, or inedible~~  
4 ~~kitchen grease, or any vehicle transporting agricultural irrigation~~  
5 ~~supplies that are in plain view within the boundaries of a state~~  
6 ~~park, state forest, or federal forest, or on timberland, and inspect~~  
7 ~~the bills of lading, shipping or delivery papers, or other evidence~~  
8 ~~to determine whether the driver is in legal possession of the load;~~  
9 ~~and, upon reasonable belief that the driver of the vehicle is not in~~  
10 ~~legal possession, shall take custody of the vehicle and load and~~  
11 ~~turn them over to the custody of the sheriff of the county in which~~  
12 ~~the timber products, livestock, poultry, farm produce, crude oil,~~  
13 ~~petroleum products, inedible kitchen grease, or agricultural~~  
14 ~~irrigation supplies are apprehended.~~

15     ~~(2) The sheriff or a deputy sheriff may enforce paragraph (1)~~  
16 ~~with regard to a vehicle transporting agricultural irrigation supplies~~  
17 ~~that are in plain view within the boundaries of a state park, state~~  
18 ~~forest, or federal forest, or on timberland.~~

19     ~~(b) The sheriff shall receive and provide for the care and~~  
20 ~~safekeeping of the apprehended timber products, livestock, poultry,~~  
21 ~~farm produce, crude oil, petroleum products, inedible kitchen~~  
22 ~~grease, or agricultural irrigation supplies that were in plain view~~  
23 ~~within the boundaries of a state park, state forest, or federal forest,~~  
24 ~~or on timberland, and immediately, in cooperation with the~~  
25 ~~department, proceed with an investigation and its legal disposition.~~

26     ~~(c) Any expense incurred by the sheriff in the performance of~~  
27 ~~his or her duties under this section shall be a legal charge against~~  
28 ~~the county.~~

29     ~~(d) For the purposes of this section, the following terms mean~~  
30 ~~the following:~~

31     ~~(1) "Agricultural irrigation supplies" include agricultural~~  
32 ~~irrigation water bladder, drip irrigation tubing, and fertilizer.~~

33     ~~(2) "Timberland" has the same meaning as set forth in Section~~  
34 ~~51104 of the Government Code.~~

35     ~~SEC. 3. Section 2810.2 is added to the Vehicle Code, to read:~~

36     ~~2810.2. (a) A member of the California Highway Patrol, a~~  
37 ~~sheriff, or a deputy sheriff may stop any vehicle transporting~~  
38 ~~agricultural irrigation supplies that are in plain view on a rock~~  
39 ~~road or unpaved road within the respective jurisdiction of the~~  
40 ~~Department of Parks and Recreation, the Department of Fish and~~

1 *Game, the Department of Forestry and Fire Protection, the United*  
2 *States Forest Service, or the Bureau of Land Management, or*  
3 *within the respective ownership of a timberland preserve zone,*  
4 *and inspect the bills of lading, shipping, or delivery papers, or*  
5 *other evidence to determine whether the driver is in legal*  
6 *possession of the load, and, upon reasonable belief that the driver*  
7 *of the vehicle is not in legal possession, shall take custody of the*  
8 *vehicle and load and turn them over to the custody of the sheriff*  
9 *of the county where the agricultural irrigation supplies are*  
10 *apprehended.*

11 *(b) The sheriff shall receive and provide for the care and*  
12 *safekeeping of the apprehended agricultural irrigation supplies*  
13 *that were in plain view within the boundaries of a state park, state*  
14 *forest, or federal forest, or on timberland, and immediately, in*  
15 *cooperation with the department, proceed with an investigation*  
16 *and its legal disposition.*

17 *(c) Any expense incurred by the sheriff in the performance of*  
18 *his or her duties under this section shall be a legal charge against*  
19 *the county.*

20 *(d) A peace officer shall not cause the impoundment of a vehicle*  
21 *at a traffic stop made pursuant to subdivision (a) if the driver's*  
22 *only offense is a violation of Section 12500.*

23 *(e) During the conduct of pulling a driver over in accordance*  
24 *with subdivision (a), if the peace officer encounters a driver who*  
25 *is in violation of Section 12500, the peace officer shall make a*  
26 *reasonable attempt to identify the registered owner of the vehicle.*  
27 *If the registered owner is present, or the peace officer is able to*  
28 *identify the registered owner and obtain the registered owner's*  
29 *authorization to release the motor vehicle to a licensed driver*  
30 *during the vehicle stop, the vehicle shall be released to either the*  
31 *registered owner of the vehicle if he or she is a licensed driver or*  
32 *to the licensed driver authorized by the registered owner of the*  
33 *vehicle. If a notice to appear is issued, the name and the driver's*  
34 *license number of the licensed driver to whom the vehicle was*  
35 *released pursuant to this subdivision shall be listed on the officer's*  
36 *copy of the notice to appear issued to the unlicensed driver. When*  
37 *a vehicle cannot be released, the vehicle shall be removed pursuant*  
38 *to subdivision (p) of Section 22651, whether a notice to appear*  
39 *has been issued or not.*

1     (f) For the purposes of this section, the following terms have  
2     the following meanings:

3     (1) “Agricultural irrigation supplies” include agricultural  
4     irrigation water bladder, drip irrigation tubing, and fertilizer.

5     (2) “Timberland preserve zone” has the same meaning as set  
6     forth in Section 51110 of the Government Code.

7     SEC. 4. It is the intent of the Legislature that the  
8     implementation of Section 12025 of the Fish and Game Code and  
9     Section 2810.2 of the Vehicle Code, as added by this act and  
10    hereafter amended, not contradict the purposes or application of  
11    the Compassionate Use Act of 1996 (Section 11362.5 of the Health  
12    and Safety Code.

13    SEC. 5. The provisions of this act are severable. If any  
14    provision of this act or its application is held invalid, that invalidity  
15    shall not affect other provisions or applications that can be given  
16    effect without the invalid provision or application.

17    ~~SEC. 4.~~

18    SEC. 6. If the Commission on State Mandates determines that  
19    this act contains costs mandated by the state, reimbursement to  
20    local agencies and school districts for those costs shall be made  
21    pursuant to Part 7 (commencing with Section 17500) of Division  
22    4 of Title 2 of the Government Code.